

**OPINION
49-198**

May 13, 1949 (OPINION)

VETERANS

RE: Soldier's Bonus

We are in receipt of your letter addressed to Wallace E. Warner, Attorney General, dated April 27, 1949, in which you ask the following questions:

1. Is there any exception to the requirement of 60 days in active service as set forth in the act: (Regarding a veteran being discharged for a service connected disability?)
2. Is a living wife or husband of two or more deceased veterans entitled to compensation based on service in the Armed Forces for each of the deceased veterans?
3. Does the remarriage of a widow or widower of a deceased veteran bar the widow or widower from applying for compensation as a wife or husband of a deceased veteran?

If so, when must the wife or husband been unremarried?
 - A. At the time of the passage of Senate Bill No. 2?
 - B. At the time of filing the application? or
 - C. At the time of receipt of payment of compensation.
4. Can fees be charged for assisting an applicant in the execution of a claim for compensation?
5. By whom must the application for compensation based on service of a living veteran be made?
6. If a deceased veteran's wife has remarried and there two or more living children from the veteran's marriage who are entitled to compensation, must separate or joint application be made?
7. If the deceased veteran was not married and had no children must the surviving parents make separate or joint applications?
8. If the living children of a deceased veteran make joint or separate application, will joint or separate payment be made by us?
9. Will parents of deceased veteran who are entitled to compensation be paid separately or jointly?
0. Does the fact that a veteran has made application to a

state other than North Dakota for a bonus automatically eliminate him from compensation in North Dakota?

1. If a veteran died in active service, but with less than 60 days active service during the "Period of Service" as stated in the act, will his beneficiary be eligible for payment of \$600?

Answer to Question No. 1. I believe the best rule is to strictly apply the 60 days honorable and faithful service in the military, navy, marine, etc.

Answer to Question No. 2. No. The surviving husband or wife would be entitled to compensation for only one, and that one would be the last one, because the remarriage would be a bar to the claim of the previous veteran (husband or wife.)

Answer to Question No. 3. An unmarried beneficiary must be unmarried at the time payment becomes due. (I believe this would be the best rule to follow.)

Answer to Question No. 4. A reasonable fee can be charged by a person assisting in the execution of such an application.

Answer to Question No. 5. A living veteran must make application or if incompetent then his duly appointed guardian should make, and execute the application; or his parentis loco may make application. However, only one may make application and it must be for the veteran.

Answer to Question No. 6. A joint application should be made by the surviving issue of the deceased veteran which would also include adopted children which were adopted by the deceased veteran or by children by right of representation.

Answer to question No. 7. A joint application should be made by the surviving parent or parents. Where parents have been divorced and remarried, the actual parent or parents must make the joint application. The new spouse as a result of the remarriage would not be entitled to make an application.

Answer to Question No. 8. A joint payment should be made to the surviving issue. In most instances the surviving issue of a deceased veteran would be minors and as such the application and payment would be made through their guardian.

Answer to Question No. 9. Joint payment should be made to the surviving parents for mutual protection.

Answer to Question No. 10. Yes, an application in some other state automatically bars the veteran from making an application in the State of North Dakota. This rule, however, should be relaxed so as to permit the veteran to withdraw his application in another state and also show by competent evidence that it was withdrawn and no payment received thereon.

Answer to Question No. 11. The beneficiary will receive a minimum

payment of \$600 irrespective of the time of active service. The provision for the beneficiary is set forth separately and is not construed in the same light as the provisions set forth for living veteran who must have served 60 days of active, honorable and faithful service in the United States Armed Forces.

A parent or parents who have more than one deceased veteran may make application for compensation for each deceased veteran.

In the cases where the deceased veteran was divorced and remarried each case should be considered separately as to the validity of the divorce and remarriage.

WALLACE E. WARNER

Attorney General